

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF VENTURA
VENTURA DIVISION**

TENTATIVE RULINGS

EVENT DATE: 01/05/2015
JUDICIAL OFFICER: Tari Cody

EVENT TIME: 08:20:00 AM

DEPT.: 20

CASE NUM: 56-2014-00458073-CU-AS-VTA
CASE TITLE: ROBERT DENYER VS AB ELECTROLUX

CASE CATEGORY: Civil - Unlimited

CASE TYPE: Asbestos

EVENT TYPE: Demurrer (CLM) - to plaintiffs' Complaint; Memo of p&a's
CAUSAL DOCUMENT/DATE FILED: Demurrer, 11/21/2014

No notice of intent to appear is required. If you wish to submit on the tentative decision, you may send a telefax to Judge Cody's secretary at 805-662-6712, stating that you submit on the tentative. Please include the hearing date, the case name and case number on your telefax. Do not call in lieu of sending a telefax, nor should you call to see if your telefax has been received. If you submit on the tentative without appearing and the opposing party appears, you run the inherent risk of the hearing being conducted in your absence.

The court's tentative ruling is as follows:

Deny Plaintiffs Robert and Gertrude Denyer's request for judicial notice, on the ground that Plaintiffs fail to articulate an appropriate purpose for the Court to take judicial notice of the subject court records.

Overrule Defendant Rheem Manufacturing Company's ("Rheem") demurrer for uncertainty to Plaintiffs' entire Complaint, on the grounds that (a) demurrers for uncertainty are disfavored and should only be sustained where the complaint is so bad that the demurring defendant cannot reasonably respond thereto (see, e.g., *Khoury v. Maly's of Calif., Inc.* (1993) 14 Cal.App.4th 612, 616); and (b) here Plaintiffs generally identify the types of asbestos-containing products Plaintiff Robert Denyer was allegedly exposed to and their failure to allege more specific information (i.e., specific brand/model/identification numbers) does not prevent Defendant Rheem from reasonably responding to the Complaint.

Overrule Defendant Rheem's general demurrer to the first cause of action for negligence, second cause of action for strict liability, and sixth cause of action for loss of consortium, on the ground that Plaintiffs allegations regarding production identification and causation are just sufficient..

Overrule Defendant Rheem's general demurrer to the third cause of action for false representation and fourth cause of action for "intentional tort" (i.e., fraudulent concealment/nondisclosure), on the grounds that the allegations are sufficient to place Defendant Rheem on notice of the nature of the fraud claims against it, and due to the nature of the nondisclosures/false representations alleged, Rheem is likely to have knowledge of material facts which is superior to Plaintiffs', at least at this early stage in the proceeding.

Order Defendant Rheem to file and serve an Answer to the Complaint by no later than January 26, 2015.

Absent waiver of notice and in the event an order is not signed at the hearing, the prevailing party shall prepare a proposed order and comply with CRC 3.1312 subdivisions (a), (b), (d) and (e). The signed order shall be served on all parties and a proof of service filed with the court. A "notice of ruling" in lieu of this procedure is not authorized.